HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

W.P. No.14734 of 1998

6.7.2007

Between

A.V.Sesha Sai ..Petitioner

AND

The Secretary, Nagarjuna Education Trust, Akshra School, Kakinada and others ..Respondents

:: JUDGMENT ::

HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

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W.P. No.14734 of 1998

This writ petition has been instituted by a Teacher impugning the clause incorporated in his order of appointment enabling the management to terminate his services with three months' notice. The writ petitioner asserted that pursuant to the selections carried out by the first respondent, he came to be selected and appointed as a Teacher in the third respondent school, managed and run by the first respondent Trust. He had been appointed on 6.7.1991. The writ petitioner asserts that while he was working in the third respondent School, through the orders passed on 30.4.1998, his services came to be terminated. The writ petition has been instituted calling in question this action of the management in terminating his services by tendering him three months' salary in lieu of notice. It is not in dispute that the third respondent school is affiliated to the Central Board of Secondary Education and therefore, it follows the pattern of curriculum prescribed by the Central Board. The writ petitioner has asserted that his performance of duties as a Teacher is found to be satisfactory and that he had been subjected to hostility wholly due to extraneous and unconnected reasons with his performance as a Teacher.

Clause (6) of the order of appointment dated 6.7.1991 is to the following effect:

"6. Probation and notice of termination: You

> will be initially on probation for a period of one year from the date of your joining. During the probationary period, your services can be terminated with one month's notice, in writing, on either side or payment of one month's salary in lieu of notice period without assigning any reason. On completion of your probationary period, if your performance and progress are found satisfactory by the Management, you will be confirmed in writing. Unless and until confirmed, you will be deemed to be on probation. After confirmation, your services liable to termination by a written notice of three months on either side or payment of three months salary in lieu thereof.
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> The Management shall further be free to terminate your services at any time, without any notice on compensation in lieu thereof in the event of any disobedience, insubordination, misconduct, breach any of the rules and regulations of the School, inefficiency, negligence or physical or mental disability on your part".

The relationship of master and servant between a private organization and the writ petitioner is hardly in doubt. But however, since the School is established in the State of Andhra Pradesh and it is run and managed by a private agency, this Court already held that such schools are still liable to follow the mandatory requirements prescribed by the Andhra Pradesh Education Act, 1982 (see **Anita Aidinyantz vs. Dr. Ken. R.Gnanakan**[1] as confirmed in Writ Appeal No.1475 of 1996 by a judgment dated 24.7.2003). In terms of Section 79 of the Education Act, 1982, the service of no Teacher can be terminated without following the procedure prescribed therefor. By the very nature of the terms contained in clause (6) of the

order of appointment of the writ petitioner, it becomes clear that after the initial period of probation, the writ petitioner is deemed to have been confirmed and that is the reason why the management has preferred to invoke the power of terminating a regular Teacher with three months' notice. Otherwise, there is no necessity for the management to invoke or seek to pay three months' salary in lieu of such a notice while terminating the service of the writ petitioner. It therefore emerges that the writ petitioner is treated as a regular Teacher of the third respondent School.

An attempt is sought to be made both in the counter affidavits and at the Bar that the services of the writ petitioner have not come for appreciation as a Teacher and only for the reasons of his failure to render satisfactory service to the School, his services were sought to be terminated. But however, even for such reasons, the management cannot dispense with the obligation to comply with the basic principles of natural justice. In all other circumstances, perhaps the order of termination would have been set aside and the matter would have been remanded back, so that both the parties can proceed further, but however, there are certain developments which have taken place in the meantime.

The Teacher has filed a reply to the additional counter in this Court indicating as to how, after the Respondents have terminated his services, for short spells, he had worked in a couple of Schools. Subsequently, it is his assertion that he was not employed. No reasons are explained by the writ petitioner as to why, he had not continued his employment with those Schools, though it is besides the issue in this case. It therefore

appears that the writ petitioner had the potential of getting employed and there are also opportunities that have come his way to get employed after his services have been terminated by the Respondents, but, for certain reasons, he could not get appointed in any School. Instead of trying to remand the matter back and subjecting the writ petitioner to the ordeal of facing a disciplinary action at the hands of the management of the school, I consider it appropriate to order payment of a lump sum amount as compensation for the improper termination of his services by the management without following the due procedure.

Sri M.V.Suresh, learned counsel representing the first respondent has also shown inclination towards payment of compensation, but he would suggest that payment of compensation of approximately six months' salary would have been an adequate compensation in these set of circumstances, considering the short tenure of employment of the writ petitioner with the first respondent organization.

The learned counsel for the writ petitioner on the other hand is not willing to accept any such amount, being too low and too marginal compensation in lieu of the employment. To put an end to all these controversies, I consider it appropriate to direct the first respondent to pay a sum of Rs.50,000/- as full and final settlement of all dues as a measure of compensation to the writ petitioner in lieu of the obligation to reinstate him. I therefore direct the first respondent to pay a sum of Rs.50,000/- as compensation for having terminated the employment of the writ petitioner without following the procedure. The amount now directed, be paid on or before 15th August, 2007.

The writ petition is disposed of in the terms indicated above. No costs.

NOOTY RAMAMOHANA RAO.J.

6.7.2007
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[1] 1997 (1) ALT 579